(5)

K-127

April 22, 1970

Neil Fabricant, Esq.
General Counsel
New York City Environmental
Protection Administration
Municipal Building
New York, New York

Dear Mr. Fabricant:

This will confirm our telephone conversation today concerning the Order to Show Cause returnable before the Commissioner of the Department of Air Resources on Friday, April 24, 1970 recently served on Mario & DiBono Plastering Co., Inc. in connection with fireproofing work being performed at the World Trade Center.

In accordance with our discussion it is understood that this hearing will be adjourned indefinitely pending analysis of the results of studies now progressing and soon to be completed on the feasibility of utilizing an asbestos-free spray-on fireproofing material as a substitute for the mineral spray material containing asbestos fibres that has been in use. The Port Authority in the meantime has directed Mario & DiBono to suspend all fireproofing spray operations and will not authorize resumption of such operations without first giving you two-day's notice, should it, on the basis of the test results, decide to continue the use of the mineral spray containing asbestos fibres, or one-day's notice, should it decide to utilize the asbestos-free material currently under study.

PLAINTIFF'S EXHIBIT PX-586

As you know, it has been the long-standing policy of the Port Authority voluntarily to conform to State rules and regulations as well as municipal ordinances, particularly where the public safety or welfare is involved, even though as the direct governmental agency of the States of New York and New Jersey, the Authority as a matter of law, is not subject to such rules and regulations or ordinances. Accordingly, the Authority's voluntary direction to its subcontractor to suspend asbestos spray fireproofing operations at the World Trade Center should not be interpreted as a submission by it to the jurisdiction of the Environmental Protection Administration or the Department of Air Resources in this matter.

Sincerely,

Patrick J. Falvey
Assistant General
Counsel

bcc: Messrs. Levy, Monti, Raiola, Tozzoli

THE PORT OF N.Y. AUTHORITY
'70 APR 23 AM 10:43
PLANNING & CONSTR. DIV.